

WASHINGTON STATE DEPARTMENT OF REVENUE



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Tribal Cigarette Compact Bill Gains Broad Support

OLYMPIA, Wash., Jan. 19, 2001 — A bill that would help settle a decades-old dispute over the sale of untaxed cigarettes at Indian smokeshops was introduced into the Legislature today at the request of the State Department of Revenue, retailers and nine Indian tribes.

Senate Bill 5372 and House Bill 1201 would authorize Governor Gary Locke to enter into compacts with the tribes under which the tribes would impose their own cigarette tax. The rate would be equivalent to the state sales tax on cigarettes, which is currently 82.5 cents on a 20-cigarette pack. In exchange, the state would no longer pursue the purchasers of these cigarettes for tax evasion.

SB5372 was introduced by Senators Margarita Prentice (D-Seattle), and Dan Swecker (R-Rochester); HB1201 was introduced by Representatives Hans Dunshee (D-Snohomish), and Kelly Barlean (R-Langley).

The legislation currently affects the Squaxin Island Tribe, Nisqually Tribe, Tulalip Tribes, Muckleshoot Indian Tribe, Quinault Nation, Sauk-Suiattle Tribe, Jamestown S'Klallam Indian Tribe, Port Gamble S'Klallam Tribe, and Stillaguamish Tribe.

In addition to the named tribes, backers of the bill include the Washington Food Industry and the Washington Retail Association. Those organizations have long been concerned about competition from smokeshops selling cigarettes to non-Indians.

Gary O'Neil, assistant director for Special Programs at the Department of Revenue, said the current bill is the result of two years of negotiation and represents the first time that retailers,

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convenience stores, tribes and the Department have been able to craft a bill that meets the needs of all parties.

O'Neil noted that cigarette tax does not apply to cigarettes sold on an Indian reservation to an enrolled tribal member for personal consumption. Sales to non-tribal members are subject to the tax. Enforcement of the state cigarette tax has been difficult and has led to frequent litigation with mixed results, he added, while straining state-tribal relationships.

A similar bill was introduced late in the 2000 session with the support of four tribes. This year, nine tribes have indicated interest in signing the compact and a couple other tribes support the concept, O'Neil said.

Robert Whitener, Jr., executive director of the Squaxin Island Tribe, said this bill will help tribal governments begin to establish a reliable, stable tax base, something that every government needs to meet the needs of its people.

"This is a great first step toward resolving the long-running dispute between a number of tribes regarding taxes on sales of cigarettes," Whitener said. "What we've done is taken the simplest scenario – where a tribe operates a single convenience store on the reservation – and negotiated basic compact terms."

Whitener said that this approach works fine for the nine tribes who've asked to be named in the bill, although more work needs to be done to meet the needs of other tribes that sell cigarettes.

"Other tribes need a different model than the one that works for the Squaxin Island Tribe, which is why we wanted a bill that doesn't set the terms for the other tribes," he added. "We're asking the legislature for authority to go ahead and get this first step done, then we'll start working on the more complex situations."

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